IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 19TH JUNE 2007 / 29TH JYAISHTA 1929

WA.No. 1275 of 2007()

AGAINST THE JUDGEMENT IN OP.13012/1999 Dated 27/10/2006
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APPELLANT: PETITIONER:

N.RAJAN , LESSEE, M/S.K.C.TALKIES,
CHAVARA, KOLLAM RESIDING AT RAJ BHAVAN,
KURIPUZHA, KOLLAM 33.

BY ADV. SRI.N.VIMALAN

RESPONDENTS: RESPONDENTS:
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1. UNION OF INDIA REPRESENTED BY THE
SECRETARY TO THE GOVERNMENT OF INDIA,
DEPARTMENT OF LABOUR, NEW DELHI.

2. REGIONAL COMMISSIONER, EMPLOYEES
PROVIDENT FUND, BHAVISHYA NIDHI BHAVAN,
PATTOM, THIRUVANANTHAPURAM-695004

3. ASST.PROVIDENT FUND COMMISSIONER,
EMPLOYEES PROVIDENT FUND,
BHAVISHYA NIDHI BHAVAN, PATTOM, TRIVANDRUM.

4. THE RECOVERY OFFICER,
EMPLOYEES PROVIDENT FUND, BHAVISHYA NIDHI BHAVAN,
PATTOM, THIRUVANANTHAPURAM -695 004.

5. THE PROVIDENT FUND INSPECTOR,
OFFICE OF THE PROVIDENT FUND INSPECTOR,
EVEREST HOTEL BUILDING, KOLLAM-691001.

R1 BY ADV. SRI.P.PARAMESWARAN NAIR, ASSISTANT SG
R2 TO 5 BY SC SRI N.N.SUGUNAPALAN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 19/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

W.A. No.1275 of 2007

Dated, this the 19th day of June, 2007

JUDGMENT

H.L. DATTU, CJ.

This appeal is directed against the orders passed by a learned Single Judge in O.P.No.13012 of 1999 dt. 27.10.2006.

2. The learned counsel appearing for the appellant would submit that the person who was running the cinema theatre before the petitioner took over it, had not complied with the provisions of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (for short, the Act). Therefore, the petitioner before us cannot be asked to pay the amount due under the Act.

3. Yet another contention is canvassed that since the number of employees have been reduced from 7 to 4, the petitioner is not governed by the provisions of the Act.

4. None of the contentions canvassed by the learned counsel for the appellant has any merit. First and foremost, the person from whom the petitioner has taken over the cinema establishment was covered under the Act. But, for various reasons, the authorities under the Act had not recovered the dues under the aforesaid Act from the previous person. Merely for the reason that the amounts were not recovered under the Act, it does not mean that the petitioner would be absolved from payment of

the amounts due under the Act. Secondly, there is no time limit as such for recovery of the amounts due under the Act. Therefore, the first submission of the learned counsel has no merit.

5. In so far as the second issue is concerned, in view of the provisions of sec.1(5) of the Act, even though the number of employees are reduced from 7 to 4 and since the establishment had already been covered under the Act, the petitioner is now governed by the provisions of the Act and, therefore, even the second contention, in our opinion, has no merit whatsoever.

Therefore this appeal requires to be rejected and it is rejected. Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

mt/